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3 Nevada Bar No. 004417
4 212 South Jones Boulevard
5 Las Vegas, Nevada 89107
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8 and

9 MARK S. BOSCO, ESQ.
10 Arizona Bar No. 010167
11 TIFFANY & BOSCO, P.A.
12 2525 East Camelback Road. Suite 300
13 Phoenix, Arizona 85016
14 Telephone: (602) 255-6000

15 US Bank National Association, as Successor Trustee to Bank of America National Association
16 successor by merger to LaSalle Bank National Association, as Trustee for Morgan Stanley Mortgage
17 Loan Trust 2007-3XS
18 09-72938 / [REDACTED]

19 **UNITED STATES BANKRUPTCY COURT**
20 **SOUTHERN DISTRICT OF NEVADA**

21 In Re:

22 Virginia Koehn

23 Debtors.

24 09-16897-mkn

25 MS Motion No.

26 Date:

Time:

Chapter 13

DECLARATION RE BREACH OF CONDITION

27 STATE OF SC)
28) ss.
29 COUNTY OF Upd)

30 I, Teresa J. Williams declare and state:

1 1. As to the following facts, I know them to be true of my personal knowledge, and if
2 called upon to testify in this action, I could and would testify competently thereto.

3 2. I am an employee of US Bank National Association, as Successor Trustee to Bank
4 of America National Association successor by merger to LaSalle Bank National Association, as
5 Trustee for Morgan Stanley Mortgage Loan Trust 2007-3XS, Secured Creditor herein, and am
6 most familiar with the loan and the ongoing litigation.

7 3. The real property subject to the Trust Deed is commonly described as 689 Mesa
8 View #95 , Mesquite, NV 89027 and legally described as follows:

9 Parcel I:
10 Unit Ninety-Five (95) in Building Seventeen (17) of MESQUITE MESA PHASE 2, A
11 CONDOMINIUM SUBDIVISION, as shown by map thereof on file in Book 80 of Plats, page
12 51, in the office of the County Recorder of Clark County, Nevada, and as defined in that certain
13 declaration of covenants, conditions and restrictions and reservation of easements for the
14 Mesquite Mesa Condominiums recorded October 28, 1996 in Book 961028 of Official Records,
15 Clark County, Nevada, as Document No. 00324.

16 Parcel II:
17 An undivided 1/3 interest in and to the common areas and common elements shown as
18 construction Phases Eight (8) and Ten (10) only, upon said map of MESQUITE MESA PHASE
19 2, A CONDOMINIUM SUBDIVISION, in Book 80 of Plats, Page 61, in the Office of
20 the County Recorder of Clark County, Nevada and as defined in said declaration of covenants,
21 conditions, restrictions and reservation of easements.

22 Parcel III:
23 Together with a non-exclusive easement for ingress and egress over the private drives, common
24 elements, and other common areas and association property as established and defined in said
25 declaration of covenants, conditions, restrictions and reservation of easements.

26 4. I have examined the document entitled "Order Regarding Adequate Protection", a
copy of which is attached hereto and marked as Exhibit "A" and incorporated herein by this
reference, and am representing my personal knowledge as to whether the Debtor have complied
with the requirements of said Order.

 5. Pursuant to the aforementioned Order, the Debtor would have fifteen (15) days
from the date of this Declaration in which to cure the delinquencies due. If upon the 16th) day,
Debtor has failed to so cure those delinquencies, the automatic Stay Order would be vacated and
extinguished as to this Secured Creditor.

6. As of the date of this Declaration, the Debtor has not made the payments as required by the aforementioned Order. The Debtor is presently past due as follows:

a.	6 Monthly Payments at \$1,017.51 (September 1, 2009 – February 1, 2010)	\$6,105.06
b.	6 Stipulated payments at \$851.52 (September 20, 2009 – February 20, 2010)	\$5,109.12
c.	6 Late Charges at \$46.35 (September 16, 2009 – February 16, 2010)	\$278.10
d.	Attorneys Fees	<u>\$100.00</u>
	Total Reinstatement	\$11,592.28

7. Debtors are responsible for the subsequent payments that will come due during this Breach period:

a.	1 Monthly Payments at \$1,017.51 (March 1, 2009)	\$1,017.51
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PARTIAL TENDERS WILL NOT BE ACCEPTED

8. Check # 1195 dated September 5, 2009 in the amount of \$1,020.00 was not negotiated by Secured Creditor and is stale dated.

9. Due to Debtors failure to timely and properly comply with the Order as set forth hereinabove, Secured Creditor has been forced to incur additionally attorneys' fees to obtain relief from the Stay Order to take possession of its real property.

10. These attorneys' fees are in addition to attorneys' fees incurred prior to the non-compliance and are now owing to Secured Creditor from Debtors pursuant to the Trust Deed.

11. Should the Debtor cure the default, the Debtor must forward the funds to:

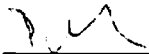
GREGORY L. WILDE, ESQ.
WILDE & ASSOCIATES
212 South Jones Boulevard
Las Vegas, Nevada 89107

I declare under penalty of perjury that the foregoing is true and correct.

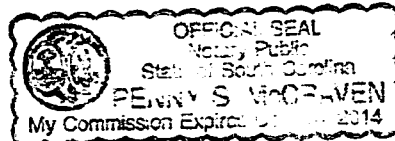


Teresa J. Williams
Assistant Secretary

SUBSCRIBED and SWORN to before me
this 28 day of Feb, 2010



Notary Public in and for said
State and County





Entered on Docket
September 15, 2009

Mike K. Nakagawa
Hon. Mike K. Nakagawa
United States Bankruptcy Judge

WILDE & ASSOCIATES
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Las Vegas, Nevada 89107
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Lodge

US Bank National Association, as Successor Trustee to Bank of America National Association
successor by merger to LaSalle Bank National Association, as Trustee for Morgan Stanley Mortgage
Loan Trust 2007-3XS
09-72938 / 1127130609

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In Re:

Virginia Koehn

BK-S-09-16897-mkn

MS Motion No.
Date: 8/19/09
Time: 1:30 P.M.

Chapter 13

Debtors.

ORDER RE ADEQUATE PROTECTION

Secured Creditor's Motion for Relief from the Automatic Stay having come on for hearing in the
above-entitled Court, all appearances as noted on court record, and based upon all the papers and
pleadings on file herein and good cause appearing therefor,

EXHIBIT *A*

1 IT IS HEREBY ORDERED, ADJUDGED and DECREED that the debtor will cure the post-
 2 petition arrearages currently due as follows:

3 4 Monthly Payments at \$1,017.51	\$ 4,070.04
(May 1, 2009-August 1, 2009)	
4 3 Late Charges at \$46.35 each	\$ 139.05
(May 16, 2009-July 16, 2009)	
5 Motion Filing Fee	\$ 150.00
6 Attorneys Fees	\$ 750.00
Total Arrearages	\$ 5,109.09

7
 8 The above arrearage shall be paid in six (6) monthly installments of \$851.52. These payments
 9 shall be in addition to the regular monthly payment and shall be due on or before the 20th day of the month
 10 commencing with the September 20, 2009 payment and continuing throughout and concluding on or
 11 before February 20, 2010.

12 IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Secured Creditor shall give
 13 Debtors at least five business days' notice of the time, place and date of sale.

14 IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Debtor shall resume and
 15 maintain the regular monthly payments in a timely fashion; outside of any Bankruptcy Plan, beginning
 16 with the September 1, 2009 payment, on Secured Creditor's Trust obligation, encumbering the subject
 17 Property, generally described as 689 Mesa View #95, Mesquite, NV 89027, and legally described as
 18 follows:

19 Parcel I:

20 Unit Ninety-Five (95) in Building Seventeen (17) of MESQUITE MESA PHASE 2; A
 21 CONDOMINIUM SUBDIVISION, as shown by map thereof on file in Book 80 of Plats, page
 22 51, in the office of the County Recorder of Clark County, Nevada, and as defined in that certain
 declaration of covenants, conditions and restrictions and reservation of easements for the
 Mesquite Mesa Condominiums recorded October 28, 1996 in Book 961028 of Official Records,
 Clark County, Nevada, as Document No. 00324.

23 Parcel II:

24 An undivided 1113'h interest in and to the common areas and common elements shown as
 25 construction Phases Eight (8) and Ten (10) only, upon said map of MESQUITE MESA PHASE
 2, A CONDOMINIUM SUBDIVISION, in Book 80 of Plats, Page 61, in the Office of
 the County Recorder of Clark County, Nevada and as defined in said declaration of covenants,
 conditions, restrictions and reservation of easements.

26 Parcel III:

Together with a non-exclusive easement for ingress and egress over the private drives, common
 elements, and other common areas and association property as established and defined in said
 declaration of covenants, conditions, restrictions and reservation of easements.

1 IT IS FURTHER ORDERED, ADJUDGED and DECREED that if the Debtors fail to make any
2 payments as stated in this Order, or fail to maintain the regular monthly payments on Secured Creditor's
3 Trust Deed obligation, allowing the normal grace period, then Secured Creditor may file and serve upon
4 Debtors and Debtors' counsel, a fifteen (15) Day Notice Declaration Re Breach of Condition. For each
5 such Declaration Re Breach of Condition filed, there shall be assessed an attorney fees of \$100.00, to be
6 paid by the Debtors upon any reinstatement. If upon the sixteenth (16th) day Debtors have failed to cure
7 the delinquency, then Secured Creditor may submit to this Court an Order vacating the automatic stay as to
8 Secured Creditor, and Secured Creditor may thereafter proceed with foreclosure proceedings upon the
9 subject Property, pursuant to applicable State Law, and take any action necessary to obtain complete
10 possession thereof.

11
12 Submitted by:

13 WILDE & ASSOCIATES

14
15 By [Signature] 10743
16 GREGORY L. WILDE, ESQ.
17 Attorneys for Secured Creditor
18 208 South Jones Boulevard
Las Vegas, Nevada 89107

19 APPROVED AS TO FORM & CONTENT:

20 Rick A. Yarnall

21 By [Signature] 9-9-09
22 Rick A. Yarnall
23 Chapter 13 Trustee
24 701 Bridger Avenue #820
Las Vegas, NV 89101

Laura L. Fritz

25 By [Signature]
26 Laura L. Fritz
Attorney for Debtors
625 South Sixth Street
Las Vegas, NV 89101

Nevada Bar No. 6567

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17 Loan Trust 2007-3XS
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEVADA

27 In Re:
28 Virginia Koehn

29 Debtors.

09-16897-mkn
MS Motion No.
Date:
Time:
Chapter 13

CERTIFICATE OF MAILING OF
DECLARATION RE BREACH OF CONDITION

1. On Feb. 24, 2010 I served the following documents(s):

DECLARATION RE BREACH OF CONDITION

2. I served the above-named document(s) by the following means to the persons as listed below:

X a. ECF System

Laura L. Fritz
625 South Sixth Street
Las Vegas, NV 89101
Attorney for Debtor

Rick A. Yarnall
701 Bridger Avenue #820
Las Vegas, NV 89101
Trustee

X b. United States mail, postage fully prepaid:

Virginia Koehn
689 Mesaview, #95
Mesquite, NV 89027
Debtors

☐ **c. Personal Service** (List persons and addresses. Attach additional paper if necessary)

I personally delivered the document(s) to the persons at these addresses:

☐ 1. For a party represented by an attorney, delivery was made by handing the document(s) to the attorney's office with a clerk or other person in charge, or if no one is charge by leaving the document(s) in a conspicuous place in the office.

N/A

☐ 2. For a party, delivery was made by handing the document(s) to the party or by leaving the document(s) at the person's dwelling house or usual place of abode with someone of suitable age and discretion residing there.
N/A

☐ **d. By direct mail (as opposed to through the ECF System)**

(List persons and email addresses. Attach additional paper if necessary)

1
2
3 Based upon the written assignment of the parties to accept service by email or a court order. I caused
4 the document(s) to be sent to the persons at the mail addresses listed below. I did not receive, within a
5 reasonable time after the transmission, any electronic message or other indication that the transmission
6 was unsuccessful.

7 ☐ **e. By fax transmission** *(List persons and fax numbers. Attach additional paper if necessary)*


8 Based upon the written assignment of the parties to accept service by fax transmission or a court
9 order. I faxed the document(s) to the persons at the fax numbers listed below. No error was reported by
10 the fax machine that I used. A copy of the record of the fax transmission is attached.

11 ☐ **f. By messenger** *(List persons and addresses. Attach additional paper if necessary)*

12
13 I served the document(s) by placing them in an envelope or package addressed to the persons at
14 the addresses listed below and providing them to a messenger for service.

15 *(A declaration by the messenger must be attached to this Certificate of Service).*

16
17 **I declare under penalty of perjury that the foregoing is true and**
18 **correct.**

19
20 Signed on : 2/24/10 
21
22
23
24
25
26